

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

THE TRUSTEES OF COLUMBIA
UNIVERSITY IN THE CITY OF NEW
YORK,

Plaintiff

v.

NORTONLIFELOCK INC.,

Defendant

Civil Action No. 3:13-cv-00808-MHL

**NORTONLIFELOCK'S PROPOSED MISSING WITNESS INSTRUCTION IN
RESPONSE TO THE COURT'S APRIL 8, 2022 ORDER**

While NortonLifeLock, Inc. (“Norton”) maintains its objection to any Missing Witness Instruction, should the Court overrule its objection, Norton submits the following proposed instruction to be read at the conclusion of the case:

Unexplained Failure to Produce Important Witnesses: If you believe that Norton, without explanation, failed to call Dr. Dacier as a live witness at trial, you may, but are not required to, infer that Dr. Dacier's testimony would have been unfavorable to Norton.

See 1 Virginia Model Jury Instructions - Civil Instruction No. 2.080 (2022).

April 8, 2022

NORTONLIFELOCK INC.

By: /s/
Of Counsel

Dabney J. Carr, IV, VSB #28679
Robert A. Angle, VSB #37691
Laura Anne Kuykendall, VSB #82318
TROUTMAN PEPPER
HAMILTON SANDERS LLP
P. O. Box 1122
Richmond, Virginia 23218-1122
Telephone: (804) 697-1200
Facsimile: (804) 697-1339
dabney.carr@troutman.com
robert.angle@troutman.com
la.kuykendall@troutman.com

Douglas E. Lumish (*pro hac vice*)
doug.lumish@lw.com
Ryan T. Banks (*pro hac vice*)
Ryan.banks@lw.com
140 Scott Drive
Menlo Park, CA 94025
Telephone: 650.463.4600
LATHAM & WATKINS LLP

David K. Callahan (*pro hac vice*)
david.callahan@lw.com
330 North Wabash Ave., Ste. 2800
Chicago, IL 60611
Telephone: 312.876.7700
LATHAM & WATKINS LLP

Michael Morin (*pro hac vice*)
mike.morin@lw.com
Susan Yates Tull (*pro hac vice*)
susan.tull@lw.com
Benjamin J. Behrendt (*pro hac vice*)
benjamin.behrendt@lw.com
Tiffany C. Weston (*pro hac vice*)
tiffany.weston@lw.com
Richard A. Lowry (*pro hac vice*)
richard.lowry@lw.com
Srinivas Pathmanaban (*pro hac vice*)
giri.pathmanaban@lw.com
Laura Nguyen (*pro hac vice*)
laura.nguyen@lw.com
555 Eleventh St., NW, Ste. 1000
Washington, DC 20004
Telephone: 202.637.2200
LATHAM & WATKINS LLP

David A. Nelson (*pro hac vice*)
davenelson@quinnemanuel.com
Stephen A. Swedlow (*pro hac vice*)
stephenswedlow@quinnemanuel.com
Nathan Hamstra (*pro hac vice*)
nathanhamstra@quinnemanuel.com
191 N. Upper Wacker, Suite 2700
Chicago, Illinois 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401
QUINN EMANUEL URQUHART &
SULLIVAN LLP

Nina Tallon (*pro hac vice*)
ninatallon@quinnemanuel.com
1300 I Street NW, Suite 900
Washington, DC 20005
Telephone: (703) 967-9395
QUINN EMANUEL URQUHART & SULLIVAN, LLP

Richard Erwine (*pro hac vice*)
richarderwine@quinnemanuel.com
51 Madison Ave, 22nd Floor
New York, NY 10010
Telephone: (212) 849-7135
Facsimile: (212) 849-7100

ATTORNEYS FOR DEFENDANT
NORTONLIFELOCK INC.